

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD ROY SCOTT,

Plaintiff,

v.

WILL BAILEY,

Defendant.

Case No. C06-5173RBL

REPORT AND
RECOMMENDATION
REGARDING DEFAULT

NOTED FOR September 1st, 2006

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. On July 7th, 2006, Defendant filed an answer and notice of appearance. (Dkt. # 21 and 22). Five days later, on July 12th, 2006, the court received a motion for default. The motion for default was signed by plaintiff on July 11th, 2006. (Dkt. # 23).

As an answer had been filed prior to plaintiff bringing his motion. The motion does not warrant any further consideration. The motion for default and the answer may have crossed in the mail, and the court does not imply plaintiff's motion was filed in bad faith. A proposed order accompanies this Report and Recommendation.

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the
REPORT AND RECOMMENDATION - 1

1 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R.
2 Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal.
3 Thomas v Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is
4 directed to set the matter for consideration on **September 1st, 2006**, as noted in the caption.

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6 DATED this 3rd day of August, 2006.

7
8 /s/ J. Kelley Arnold
9 J. Kelley Arnold
United States Magistrate Judge